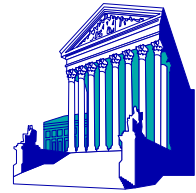




**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
1501 West Washington - Phoenix Arizona 85007- 3231
Public Information Office: (602) 542-9310

CR-01-0435-PR

STATE OF ARIZONA v. LARRY D. THOMPSON.
1 CA-CR 00-0439 (Opinion).

Petition for review: filed by Assistant Attorneys General Kerri L. Chamberlin and Joseph T. Maziarz.

The defendant also filed
a petition for review by: James R. Rummage.

I. ISSUES

State: “Did the court of appeals err by holding that A.R.S. § 13-1101(1), defining premeditation, is unconstitutionally vague as judicially construed by this Court?”

Defendant: “Whether the elimination of ‘actual reflection’ from the definition of premeditation obliterates any meaningful distinction between first-degree murder and second-degree murder, rendering the statute unconstitutionally vague.”

II. SUMMARY

Defendant Thompson was convicted of first degree murder and sentenced to natural life in prison. He appealed, arguing that the statutory definition of premeditation, the element that distinguishes first degree intentional killing from second degree intentional killing, was vague and failed to provide a meaningful difference between the two categories of intentional murder. The Court of Appeals agreed that the definition of premeditation, as construed by the Arizona Supreme Court, was unconstitutionally vague, but ruled that the defect did not effect Thompson’s trial and affirmed the conviction and sentence.

This Summary was prepared by the Arizona Supreme Court Staff Attorney’s Office and the Administrative Office of the Courts solely for educational purposes. It should not be considered official commentary by the court or any member thereof or part of any brief, memorandum or other pleading filed in this case.



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ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
1501 West Washington - Phoenix Arizona 85007- 3231
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**State of Arizona vs. Jerome Henry Evenson,
CR-01-0438-PR**

Parties and Counsel:

Petitioner: Jerome Evenson is represented by A. Melvin McDonald, Jones Skelton & Holuchi.

Respondent: The State is represented by Randall M. Howe, Assistant Attorney General.
Amicus Curiae (Friend of the Court): The County Attorney is represented by Gerald Grant, Deputy County Attorney. The American Civil Liberties Union (ACLU) is represented by Mary Ann Sophie.

Facts:

Petitioner is a newspaper publisher convicted under A.R.S. §13-3513, making it unlawful for any person to knowingly display sell or offer to sell in any coin-operated vending machine any "material harmful to minors", as defined in A.R.S. §13-3501. *The Beat* newspaper was sold in 200-plus news racks in the Phoenix area for fifty cents a copy. It contained advertisements with photos of nude and partially nude women and personal ads for sexual encounters. Petitioner was fined \$166,400 and placed on three years felony probation.

II. Issues:

1. When the Arizona Legislature enacted A.R.S. §13-3513 as a criminal statute targeting content-based publication, did the U.S. Constitution and/or the Arizona Constitution require the Legislature to conduct hearings and receive substantial and compelling evidence that such publications, being distributed through news racks, were actually causing real and substantial harm to minors?

2. Can a publisher who offers a newspaper through vending machines subsequently be charged and convicted of a crime where there is no evidence or finding that any minor, in 33 years of similar publications, have ever viewed, purchased or been exposed to the publisher's newspaper?

3. Does A.R.S. §13-3513 violate the due process clause of the U.S. and Arizona Constitution by criminalizing actions that are unconstitutionally vague and void of identifiable, clearly defined "contemporary state standards"?

4. Does a fine of \$166,400 levied against publisher for offering newspaper through coin operated news racks violate the Eighth Amendment prohibition against excessive fines and the first amendment rights of speech and press?

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**ARIZONA SUPREME COURT
ADMINISTRATIVE OFFICE OF THE COURTS
1501 West Washington - Phoenix Arizona 85007- 3231
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CV-02-0058-PR

ESTATE OF NORMA MCGILL; WILLIAM N. MCGILL;
JOHN W. MCGILL v. HONORABLE REBECCA A.
ALBRECHT; and MARK ALLEN MANOR; JAMES L.
BEACH, D.O.; COMCARE; MI L. TRAN, M.D.

Amended Petition
for review:

filed by Karen L. Lugosi, attorney for plaintiffs McGill.

Response filed by:

Winn L. Sammons and Jim C. Goodwin of Sanders & Parks,
together with Neil Vincent Wake, representing defendants
Beach. Response filed by Timothy J. Thomason and Maxine
M. Polomski of Mariscal, Weeks, McIntyre & Freidlander,
joined by William W. Drury, Jr. and Carolyn G. Armer of
Renaud, Cook & Drury, attorneys for defendants Tran and
Comcare.

II. QUESTION PRESENTED

“Does the Adult Protective Services Act, A.R.S. § 46-455, et seq., create a cause of action for negligent medical care of a vulnerable adult or does a claimant have to show something in addition to medical malpractice to pursue a claim?”

III. SUMMARY

Norma McGill was a vulnerable adult, cared for by the defendants, who died of “cardiac arrest due to neurotoxicity secondary to medications and breast cancer metastases.” The plaintiffs accuse the defendants of negligence in providing (or not providing) medical care.

Judge Albrecht granted summary judgment to the defendants on the APSA claim. The plaintiffs filed a petition for special action in Division One, which declined jurisdiction. This petition for review followed.

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